

to see her run wild with her youthful fervor and disfigure by fanaticism, what would otherwise be so beautiful.

I have purchased for my sisters, Ann, Mary and Lucy, three of the finest and prettiest breastpins to be found in the Northern cities, and such as are in vogue at present. They are jewels for a lifetime, being of the finest and best workmanship. I also send them a pencil and gold pen each. I will add to this my daguerreotype for my sister Susan, who honored me by requesting it. To you, I send your granddaughters grouped with their father. Susan is reading her favorite book, the Bible, to her attentive father and affectionate sister. The likeness of Sue is perfect. Sally's doesn't do her justice. Mine looks like an Othello. Give my love to all the family, and accept for yourself the love of yours.

Truly and affectionately,

W. M. PEYTON.

On the 3d of April, 1847, John H. Peyton died at Montgomery Hall in his 69th year, and it has been truly said that there was no one in his public and private relations who was more honored and beloved by those who knew him best. Among the numerous letters received on this occasion is the following. It alone has been preserved. It is from his brother, Col. Rowze Peyton, of Geneva, N. Y., to Col. John B. Baldwin:

Geneva, N. Y., April 15th, 1847,

My Dear Sir:

The receipt of your letter conveying the melancholy intelligence of the death of my much loved brother shocked me indescribably, notwithstanding his long illness and the helpless condition he was in when I left twelve months ago.

I then hoped he might be spared a few years, as, if not actively useful to himself, he could be, by his advice, exceedingly so to his young and promising family. He was a most noble and generous man, a true man in every sense, and in heart and mind a great and good man, to whom I was ardently attached, and the thought that I shall never see him again in this world, causes a sorrow and sadness which may be imagined, but cannot be described. I sympathize, from the bottom of my heart with his dear wife and children. It is a terrible loss to them, and I pray they may have strength to bear it with Christian fortitude, knowing that it is the fiat of the Sovereign Ruler of the Universe, who disposes of us as he will, and to whose will we should bow with humble submission. That this melancholy event may be sanctified to the salvation of each individual member of his family, and all connected with them, is the earnest prayer of, dear Baldwin,

Your sincere friend,

R. PEYTON.

MR. PEYTON'S RESIGNATION OF OFFICE OF ATTORNEY FOR THE COMMONWEALTH.

In our last paper, the appointment of Thomas J. Michie, Esq. to the office of Commonwealth's Attorney for Augusta county, in the place of John H. Peyton, Esq., resigned, was announced. We now learn from a friend (having been absent from town at the time,) that upon returning into the hands of the court the office which he had so long and so ably and faithfully filled, *Mr. Peyton* delivered a short but pertinent and touching valedictory. He said it was just thirty-two years since he had been honored by the court with the ap-

pointment, that in casting his eyes along the bench, he recognized but a single magistrate* who was present on that occasion. He saw the sons, however, the relatives and friends of his former friends ; and that alike from the fathers and the sons, he had received tokens of confidence which had greatly gratified him in the discharge of his duties during this long lapse of years. His great purpose had always been to protect the rights of the Commonwealth, and perform faithfully the duties of an officer of the court ; and he thanked the court for their forbearance when he had erred, and for their uniform courtesy and kindness and the confidence they had ever shown him.

When *Mr. Peyton* concluded his remarks so inadequately reported, *Lyttleton Waddell, Esq.*, a member of the court, presented the following minute, which was adopted by a unanimous vote, and ordered to be spread upon the records:

"AUGUSTA COUNTY COURT, }
1st day of June term, 1844. }

John H. Peyton, Esquire, who has acted as Commonwealth's Attorney in this county for thirty-two years, having on this day resigned the said office, the Justices of the county, in full session at their June term, do, with unanimous consent, express their high sense of Mr. Peyton's long and valuable services. They add a willing testimony to the distinguished ability, fidelity and zeal, with which he has guarded the interests of the Commonwealth within the limits of the county—to his impartiality, prudence, and firmness as a public prosecutor, and to the commendable courtesy which has marked his intercourse with the Court, as becoming a public officer and a representative of the Commonwealth. And it

*L. Waddell, Sr.

is the will of the Court that this testimonial, as an additional tribute of respect, be spread upon the records."

Spectator, July 4, 1344.

Immediately after his resignation, the County Court, as the only honor yet in their power to confer, elected him a member of their body, and on several occasions, before his death, he presided in the Court where he had so long practiced.

Mr. Peyton was a member of the committee, appointed in 1843, to prepare an address to the people of Virginia, and aided in the preparation of that able and interesting document, but as it covers over fifty pages and may be found in the newspapers of the day, it is not necessary to insert it here, in order to make clear what were his political opinions. The committee was composed of B. W. Leigh, Robert W. Carter, James R. Hubbard, Chas. J. Faulkner, Wyndham Robertson, Chapman Johnson, and John H. Peyton, and was said to have united more talent than any similar body ever raised in Virginia.

SKETCH OF JOHN HOWE PEYTON,

BY

COL. JOHN T. L. PRESTON, A. M., OF YALE, PROFESSOR OF
MODERN LANGUAGES &C., IN THE V. M. INSTITUTE.

The late John H. Peyton, Esq., of Staunton, Va., was one of the finest specimens that we have ever known of the complete lawyer. During the prime of his life he pursued the profession with a laborious assiduity rarely equalled, and though as age advanced upon him he remitted his efforts, he

did not discontinue his practice until a short time before his death, [he took no new cases after his 60th year]. None of his contemporaries secured a more ample reward in either reputation or pecuniary emolument.

We have spoken of Mr. Peyton as a complete lawyer. Law as a practical profession, has several departments, and it is not unusual to see a lawyer distinguished in some of them, with a compensating deficiency in others. Some practitioners are successful collectors; some are much esteemed as judicious advisers in matters not strictly legal; some are designated good judges of law, or, in other words, safe counselors, and with some the *forte* is, Common law practice, while others are distinguished as Chancery lawyers. The organization of the courts in Virginia, and the nature of the business, at least in the interior, requires every lawyer to enter upon the whole of this miscellaneous practice; and it is not to be wondered at, that some, even good lawyers, are not equally strong in every part. Mr. Peyton knew every part of his profession thoroughly. He had studied diligently as a student, and had known the expectant struggles of the young practitioner; he had practised under the old system before the reorganization of the judiciary, and afterwards under the new; he had met in contest the strongest men in each department of the profession, and he had made himself a champion in all. We may add that some lawyers who exhibit the highest skill in securing the rights of their clients, are foolishly ignorant of their own; in other words they let slip the fair, well-earned profits of their profession. Not so with Mr. Peyton. He knew the value of his professional services, he gave them to the fullest extent to those who applied for them, and then he insisted upon just remuneration. We notice this point, not at random,

but to present a feature belonging to the character of the complete lawyer.

The characteristic of Mr. Peyton's life was efficiency. This efficiency had for its elements native vigor of intellect, great resolution of character and courageous self-confidence, ample and thorough acquirements and the quickness, precision and dexterity of action that belong only to those who have been taught by a varied experience to understand thoroughly human nature. In conversation, Mr. Peyton was ready, entertaining and instructive. But conversation was not his *forte*, though he was fond of it. He was not fluent. His manner was sometimes too direct for the highest style of polished social intercourse of a general nature, and besides he had a remarkable way of indulging in a strain of satirical banter, when his words would be so much at variance with the expression of his countenance, and particularly with the expression of his mouth, that the hearer was often in an uncomfortable state of uncertainty how to take him. His person was large and his bearing dignified, but not graceful. His manner was unaffected, but not without formality, nor was it perfectly conciliatory. Some styled him aristocratic, while none could deny that his self-respect and confident energy gave an imperious cast to his demeanor. We have oftener than once thought applicable to him, in a general way, those lines of Terence.

"Ellum, confidens, catus,
Cum faciem videas, videtur esse quantivis preti,
Kristis severitas inest in voltu, atque in verbis fides."

His voice was true and clear, and capable of sufficient variety, but without a single musical intonation, and a little sharper than you would expect to hear from a man of his size and form. If it is asked what is the style of his speaking, it may be replied, just what might be expected to be-

long to such a man as he has been described, that is to say, never was the speaker a more complete reflection of the man than in his case. We cannot believe that any one who knew him was ever surprised when they heard him speak; what he said was just what they could expect him to say. This is often the case with speakers and writers, but not always. Energy, reality, and efficiency were his characteristics as a man, and equally so as a speaker. Distinctness of conception lay at the foundation of his excellence. Some great speakers, some even pre-eminently great speakers, not unfrequently hurl unforged thunderbolts. They feel the maddening impulse of the god, but give forth their utterance before the true prophetic fury comes on.

Mr. Peyton's mind was no sybils cave whence came forth wind-driven leaves inscribed with mighty thoughts disposed by chance, but a spacious castle, from whose wide open portal issued men at arms, orderly arrayed. He had hardly opened his case when the hearer was aware that he had thought over the whole of it, had given a course to pursue, and would close when he came to the end of it. This distinctness of conception comprehended the subject as a whole, and shed its light upon each detail belonging to it. This insured the most perfect method in all that he said. Before he began to speak he had determined in his own mind, not only the order of the different parts of his discourse, but also their relative importance in producing the general impression. Hence, he was never led away by the tempting character of any peculiar topic, to expatiate upon it unduly; he did not take up matter irrelevant to the case because it might touch him personally; he never spoke for those behind the bar, nor did he neglect to secure the fruits of victory in order to pursue an adversary to utter discomfiture. He spoke as a lawyer, he spoke for the

verdict, and expected to gain it by showing that he was entitled to it. Some speakers hope to accomplish their object by single, or at least, successive impulses—now a clinching argumentative question, now a burst of brilliant declamation, and now a piece of keen wit, or a rough personality. Such speakers forget, or do not know, that a jury may admire, may be diverted, and even moved, without being won. He that gains the verdict must mould, and sway, and lead, and this is to be effected by continued, persistent pressure, rather than by *tours de force*. This Mr. Peyton knew well and observed it with perfect self-command. His hearers came away satisfied with the whole, rather than treasuring up remarkable points and passages. Let it not be supposed, however, that he was a cold speaker, who treated men as mere intellectual machines, to be set in motion by the pulleys, screws and levers of logic, far from it; he understood human nature well, and knew the motive power of the feelings; but then he knew, too, that the way to excite the most effective sympathy is not to make a loud outcry, but to make a forcible exhibition of real suffering—that the best way to rouse our indignation against fraud, deceit or oppression, is not to exhort us to hate it, but to show its hatefulness. One of his most distinguished contemporaries upon the same circuit was celebrated for his powers as a criminal advocate; his manner was obviously upon the pathetic order, perhaps a trifle too declamatory. We have seen them in the same cause, and have thought that if the eloquence of Gen. Briscoe G. Baldwin flushed the countenance quicker, the earnestness of Mr. Peyton stirred the heart deeper. Of the oratory of a class of speakers by no means rare (not, however, including in his class the distinguished jurist above alluded to,) it has been well said, “declamation roars while passion sleeps,” of speaking justly char-

acterised by this line, Mr. Peyton's was the precise reverse. With him thought became passionate before the expression became glowing, as the wave swells before it crests itself with foam.

Mr. Peyton's language was forcible, pure and idiomatic. It served well as the vehicle of his thoughts, but contributed nothing to them. There is a real and legitimate advantage belonging to the masterly use of words, of which many great speakers know how to avail themselves. Mr. Peyton attempted nothing of the sort. His diction was thoroughly English, with a marked preference for the Anglo Saxon branch of the language, and his sentences came out in the most natural order with unusual clearness and vigor, but not unfrequently with a plainness that bordered upon homeliness. His style, however, was always that of speaking, as distinguished from mere conversation—a distinction which some of our modern speakers forgot, when in order to appear at their ease, they treat, with no little disregard, not only the rules of rhetoric, but the rules of grammar as well, and use words and phrases which are (to take a word from the vocabulary which we are condemning) nothing better than slang. On the contrary, there was in Mr. Peyton's style the fruit of early studies and high-bred associations, a classical tinge, extremely pleasant to the scholar, though not perhaps appreciable by those for whom he generally spoke. It must not be supposed from what has been said of his excellent method, that he resembled in this respect some of our able, but greatly tedious lawyers, who take up, in regular succession, every possible point in the case, however minute, and worry us by officiously offering help where none is needed. So far from it, he showed his consummate skill as well in what he omitted as in what he handled, and, as a general thing, his

speeches were shorter in duration, and yet fuller of matter than those of his opponent. His use of figurative language was easy and natural, and not stinted; but his figures were always introduced as illustrations and not as arguments. It is not unusual to meet with a speaker who is unable to enounce distinctly the general principles he wishes to use, throw out an illustration to enable himself to pick out the principle from it, or at least to give his hearers a chance to do it for themselves; not so with Mr. Peyton. He held up the torch of illustration, not to throw a light forward to guide himself in his own investigations, but to enable those following the more readily to tread the road along with him. He had a very noticeable fondness for recurring to the primary fundamental principles of morals, and doubtless he was restrained, by his practical judiciousness, from indulging this disposition to the full. One of his favorite books was Lord Bacon's essays, and under other circumstances he might himself have been a distinguished moral essayist.

As well may be supposed, his general vein was grave. The high idea he entertained of the dignity of his profession, and the earnestness with which he gave himself to it; alike precluded either levity or carelessness. However, he was fully able, quite ready upon occasion, to avail himself of a keen wit, that was all the more effective, because it was dry and sarcastic. It occurs to us to mention an instance, well known to his circuit, not illustrative of his severity, but of his pleasantry, in a criminal prosecution. He, as prosecuting attorney, was opposed by two gentlemen of ability, whose pathos had been so great as to draw abundant tears from their own eyes. One of them, a gentleman who has since filled a distinguished national position (Hon. A. H. H. Stuart, Secretary of the Interior of the United States, 1850-

53) was noted for the facility with he could cover over his brilliant eloquence with the liquid varnish of his tears. On this occasion he had been singularly lachrymose, and supported by his colleague, General, afterwards Judge Baldwin, in the same way, the sensation produced was very considerable. Mr. Peyton commenced his reply by regretting the disadvantage the Commonwealth labored under in being represented by him who was a very poor hand at crying, and certainly was not able to cry against two at a time. The ludicrousness of the expression completely neutralized the pathos of his opponents. He was not averse either to a bit of farce, now and then, as is shown by a story told of him. In a remote part of the circuit a lawyer wished to adorn a moving passage of a speech he was just rising to make, with an apposite example, and applied to Mr. Peyton, sitting beside him, to help him to the name of the man in the Bible who would have his pound of flesh. With imperturbable gravity, he answered Absalom! The effect of thus confounding Shakespeare and the Bible may be imagined.

We have said that Mr. Peyton was thoroughly furnished in every part of his profession; in one department his qualifications were peculiar and unsurpassed. Without disparagement to others, it may be said, we think, that he was the best Commonwealth's Attorney in the State of Virginia. He was the lawyer of the Commonwealth, and he treated the Commonwealth as a client, and he labored for her with the same industry, zeal and fidelity that he manifested in behalf of any other client. The oft-quoted merciful maxim of the common law, "better that ninety and nine guilty men should escape than one innocent man suffer," he interpreted as a caution to respect the rights of the innocent, and not as an injunction to clear the guilty, and he labored to reduce the percentage of

rogues unwhipt of justice, as low as possible. With a clearness and force rarely equaled would he point out the necessity of punishing the guilty in order that the innocent might be safe, thus exhibiting the absolute consistency of strict justice with true mercy. So simply and earnestly would he do this, that he not only bound the consciences of the jury, but also made them feel that they were individually interested in the faithful execution of the laws. Here his clear perception of the moral principles upon which rests the penal code, and his fondness for recurring to general principles, stood him in great stead. It was delightful to hear him expatiate upon this theme, for upon no other was he more truly eloquent.

Mr. Peyton served at different times in both branches of the Legislature, but we speak not of him as a politician. Our purpose has been solely to exhibit some of the qualities which made him an eminent member and ornament of the legal profession.

SKETCH OF JOHN HOWE PEYTON,

BY

WILLIAM FRAZIER, A. M., OF YALE.

"My personal acquaintance with Mr. Peyton," says Mr. Frazier in the History of Augusta County, "commenced in October, 1824, when I entered upon the practice of my profession at the Staunton bar. He was then, as I learn from his biography, in his fifty-seventh year, and from that circumstance only, it might be inferred he had passed his climacteric. Certainly nothing in his physical appearance or his

forensic display betokened a decay of power, bodily or mentally.

Yet having amassed a handsome fortune, he established himself in a beautiful home, surrounded by a large and interesting family, and he felt himself entitled to some relaxation from the arduous demands of his profession—or at least from its drudgery. He, therefore, relegated to the younger members of the bar all minor causes, in the matter of taking depositions and the like vacation duties. But for ten years following the date of my introduction to him, there was hardly an important or celebrated cause tried at the Staunton bar, whether in the State Courts or the United States Courts, without the aid and illumination of his splendid intellect; whilst also in Albemarle, Rockbridge and Bath counties, he largely participated in the like weighty causes.

In the Supreme Court of Appeals of Virginia, his reputation throughout the State enlarged the theatre of his professional service much beyond that of his local circuit.

I wish it were in my power to give a just and discriminating analysis of his processes in the investigation and conduct of a great cause, or even a fair description of his style of forensic argument. This much may be safely said: that he seized, by apparent intuition, upon the strong and dominating points in a case, not intrequently finding those, or some of them, buried out of sight from a scrutiny less searching than his, beneath a mass of irrelevant or conflicting testimony.

Haviug thus entrenched himself in one, or a few strong positions, his array of the facts was so masterly, his presentation of them so luminous, and his arguments from them so logical, that he rarely failed to carry the tribunal with him safely and irresistibly to his conclusions. Discarding thus

the minor points and less material phases of the cause from his examination and discussion, or dismissing them in a few rapid, searching sentences, his debate was conspicuous for its compactness and logical order. Accordingly, his speeches did not ordinarily exceed one hour, and even in the most complex and voluminous causes they rarely went beyond two hours. I can recall but one occasion in which he consumed nearly three hours. His style was fluent, but not of that fluency which comes of redundant words and phrases, for I have never listened to one so terse and vigorous. I think it can be said there was hardly a superfluous word, and every sentence bore upon the conclusion aimed at. It was, therefore, never a weariness to hear this great advocate, and the promiscuous audience followed his argument, his sarcasm or his invective, with as much apparent interest as did court and jury.

It has been written of him that he was equally versed and at home in every department of the profession (unless admiralty and maritime law be excepted) but I think it was as a common law lawyer that he excelled, and that it was in the common law he found his chief delight. He was perfectly conversant with the principles of the Feudal law and immemorial usages of England as expounded by Littleton, Coke, Bacon, and all the fathers and great interpreters of English jurisprudence.

Having come to the Bar while special pleading was yet a legal science and carefully practiced system, and before popular and not too well informed legislatures sought to "simplify" the practice of the law by Statutes of Jeofails, he was, without doubt, one of the most practiced and expert special pleaders of his time. His naturally astute and logical mind, finding its expression through the channels of a terse and lu-

minous style, caused his pleadings in all their stages to be master pieces of art.

His fame as a prosecutor of the pleas of the Commonwealth has never been surpassed, if equaled, in Virginia. On this field he achieved triumphs of the most brilliant kind. His pride in his profession, and the great principles of right and justice underlying it, no less his inborn contempt for chicanery and fraud, not to speak of crime in its grosser forms, combined to make him a terror to evil doers. Some critics, even among the profession, sometimes were disposed to censure him as too harsh and unrelenting towards the prisoner at the bar, but if every circuit throughout our land possessed at this day so able, fearless and conscientious a prosecutor as did the Augusta and the surrounding circuit at that happier day in our history, perhaps we might find less cause to deplore the depreciation of the public morals, which so painfully invest the present era:

It would be a halting and very defective sketch of this eminent jurist which failed to speak of his striking originality. Negatively speaking, there were little or no commonplace and hum-drum in his forensic arguments, his debates in the Senate or his addresses from the hustings to his constituents. In a positive sense, his speeches, at least on great occasions, and when his powers were thoroughly roused, rarely failed to be marked by some flash of genius. I recall a conversation just after the close of a protracted and laborious term of the Augusta Circuit Court, in which the late Judge Lucas P. Thompson and Gen. Briscoe G. Baldwin bore the leading parts. The last named was paying generous tribute to Mr. Peyton's force and originality. Judge Thompson remarked, that he had never seen Mr. Peyton go through a cause, deeply interesting and moving him, in which he did

not utter some view or sentiment illuminated by genius, or, at the least, some illustration marked by a bold originality, and he instanced two causes, tried at the late term, one a civil suit and a very heavy will case, in which he made a novel and searching application of a familiar fable of Æsop. I forbear to give its details, because both the critic and his subject have passed from earth.

In the same cause, three signatnres were to be identified and proved, that of the testator and also of the two attesting witnesses, all three having died since their attestation. Many witnesses were called to prove the gehuineness of the three names. Opposing counsel sought to badger the witnesses, by urging them to specify what peculiar marks there were in the handwriting and signatures, whereby they could speak positively as to their identity and genuineness. This, of course, for the most part they could not do, and in the argument of the cause before the jury, the same counsel strove to throw discredit and contempt upon those witnesses (all men of good character) for their failure and inability so to describe the quality and the peculiar marks and the calligraphy of the signers as to show they were familiar with their handwriting. In his reply to those sallies of his opponents, Mr. Peyton swept away the whole airy fabric by a single happy illustration:

‘Gentlemen,’ he said, ‘you have often been assembled in crowds upon some public or festive occasion. Your hats have been thrown pell-mell in a mass with perhaps a hundred other hats, all having a general resemblance. Suppose you had attempted to describe your hat to a friend or servant, so that he might go and pick it out for you. It has as many points for description as a written signature—its color, height of crown, width of band, lining, &c. Do you think that a friend

or servant could, by any possibility, have picked out your hat for you? And yet when you went yourself, the moment your eye would light upon it, you instantly recognize it among a hundred or five hundred hats. Familiarity with it has stamped its picture on your mind, and the moment you see it, the hat fills and fits the picture in your mind, as perfectly as the same hat fits your head.'

The jury were evidently won, and gave full credence to the ridiculed witnesses.

The other instance during the same term (cited by Judge Thompson,) occurred in the celebrated prosecution of Naaman Roberts for forgery—in forging the name of Col. Adam Dickinson to a bond for \$600.00.

The body of the bond was confessedly the handwriting of the prisoner at the bar. That was admitted. The signature was a tolerably successful attempt at imitating the peculiar handwriting of Adam Dickinson. But no expert could look at the whole paper and fail to see a general resemblance between the body of the instrument and the signature, raising a strong conviction in the mind that both proceeded from the same hand.

The defense strongly insisted upon excluding the body of the instrument from the view of the witness, by covering it with paper or turning it down, and so confining the view to the signature only—upon the familiar doctrine of the law of evidence forbidding a comparison of various handwritings of the party as a ground for an opinion upon the identity, or genuineness of the disputed writing. And this point was ably and elaborately argued by the prisoner's counsel.

The learned prosecutor met it thus:

'Gentlemen, this is one entire instrument, not two or more brought into comparison. Let me ask each one of you,

when you meet your friend, or when you meet a stranger, in seeking to identify him, what do you look at? Not his nose, though that is the most prominent feature of the human face; not at his mouth, his chin, his cheek; no, you look him straight in the eye, so aptly called 'the window of the soul,' you look him in the eye, but at the same time you see his whole face. Now put a mask on that face, leaving only the eyes visible, as the learned counsel would have you mask the face of this bond, leaving to your view only the fatal signature. If that human face, so masked, was the face of your bosom friend, could you for a moment identify him, even though permitted to look in at those windows of his soul? No; he would be as strange to you as this accursed bond has ever been strange to that worthy gentleman, Col. Adam Dickinson, but a glance at whose face traces the guilty authorship direct to the prisoner at the bar.'

This most striking illustration seemed to thrill the whole audience, as it virtually carried the jury.

Mr. Peyton never was a politician. His taste and predilection lay not in that direction. But no man was better informed of the course of public affairs, or had a keener insight into the character or motives of public men. Once, and so far as I knew, once only, did he participate in the debates of a Presidential canvass. It was the memorable one of 1840, and the speech was delivered from the Albemarle hustings. His analysis of the political character of Martin VanBuren, and his delineation of his public career from his desertion of DeWitt Clinton, down to his obsequious ingratiation with Andrew Jackson, was incisive and masterly and all the more powerful and impressive because pronounced in a judicial rather than a partisan temper. Competent judges, long familiar with the very able harangues and debates on that

rostrum, declared it one of the ablest that had been listened to by any Albemarle audience.

Of his services in the Virginia Senate, I need only say, what every one would naturally expect, they were most valuable from their enlightened conservatism in the prevention of crude and vicious legislation. In the last session of his first term in the Senate, a vigorous effort was made for the passage of a stay-law rather than an increase of taxation.

It hardly needs to be said that he opposed the former and sustained the latter measure with all the vigor of his honest and manly nature. Nor could he ever have looked with any patience upon that brood of enactments since his day—the stay of executions, homestead exemptions, limitations upon sales of property, *et id omne genus*, professedly passed in the interest of the poor and the laboring man, yet in fact more detrimental to that class than any other, and most damaging to the State abroad.

Let me say, in conclusion, that the person and figure of Mr. Peyton were fine and commanding. His carriage was always erect, his head well poised on his shoulders, while his ample chest gave token of great vitality. On rising to address court or jury, there was something more than commonly impressive in his personal presence and whether clad in 'Virginia home-spun,' or English blue broadcloth with gold buttons, (and I have often seen him in both), whenever you saw him button his coat across his breast and slowly raise his spectacles to rest them on the lofty crown, you might confidently expect an intellectual treat of no mean order.

There never was a broader contrast presented in the same person than that between Howe Peyton, the lawyer, the public prosecutor, or even the Senatorial candidate

amongst the people, and the same individual in his own home. Here in the midst of his family, or surrounded by friends, the rigor of his manner relaxed, and he was the model of an affectionate husband and father, and the most genial of companions. He was 'given to hospitality,' and there was no mansion in all this favored region where it was more generously and elegantly dispensed, through many years, than at 'Montgomery Hall.' "

SKETCH OF JOHN HOWE PEYTON,

BY

JUDGE JOHN H. MCCUE, B. L., UNIVERSITY OF VIRGINIA.

One of the truest tests of the greatness of a man is very often the impression, I think, which, without intending, he makes upon the minds of the young with whom he may come in contact. There are few of us who do not remember having met, in our earlier days, with men whose presence filled us with respect and awe, before even, perhaps, we had learned their names and reputations, and who, in after years, seemed to stand out from amid our youthful recollections, apart and distinct from the memories of other men—men who, unconsciously, stamp their individuality not only upon our minds, but who often serve, though we may not perceive it, as models upon which our own conduct is, or ought to be, moulded, and the impress of whose attributes and virtues serve as standards by which we judge of other men. The impressions I have of John Howe Peyton are those which I formed when a youth, but they were such as to stamp him, not only as an able and good man, but as a great man in the truest

acceptation of the term. When a boy at the school at Waynesboro, Augusta county, of the Rev. James C. Wilson, D. D., a famous criminal trial was progressing in the Circuit Superior Court at Staunton. Mr. Peyton was the prosecutor, and was regarded as the ablest prosecuting attorney then, or who had ever been, in the Commonwealth of Virginia. Everybody was talking of this trial, in which, for various reasons, not necessary to be here detailed, the community was deeply interested. Shortly after, as I remember, I saw standing, in the porch of the hotel at Waynesboro, a gentleman of splendid form, broad shoulders and extended chest, with a magnificent head which was carried erect, and which might be aptly compared to that of Daniel Webster. His eyes were large and bright, his features straight, finely chiseled, forming a face of Grecian lineaments and expression. I did not then know who he was. The idea formed on my youthful mind was that he must be a great and famous man. I inquired respecting him, and was told that he was Mr. Howe Peyton, the famous lawyer and prosecutor. I had often heard my father speak of Mr. Peyton as one of the great lawyers of Virginia, then having her Johnson, Wickham, Tazewell, Baldwin, Sheffey, Wirt, Leigh, Tucker, Stannard, and other eminent men, who were his contemporaries. I had never seen Mr. Peyton until now. There was something, however, in the noble and dignified appearance and bearing of the man now standing before me, that at once arrested attention and impressed the beholder. The opinion formed by me of his greatness was afterwards, upon a better acquaintance, fully justified.

I knew little of Mr. Peyton personally until after I entered the University of Virginia, with his son, John Lewis Peyton, in 1842, both of us members of the law class under

the late Henry St. George Tucker. Mr. Peyton, at that time Commonwealth's Attorney for Albemarle, and the other counties composing the circuit of Judge Thompson, when in Charlottesville attending the court, sojourned at the residence of his brother-in-law, John Cochran, Esq., now (1879) surviving in his 86th year. Upon these occasions, at his request, his son and myself spent much time with him. Mr. Peyton manifested a deep interest, naturally, in the progress of his son, and in my own, because of his warm and intimate friendship for my father. It was during the frequent conversations which it pleased him to hold with us, that I learned to appreciate the great powers of his mind, not perhaps as to its capacity, but more especially as to the wonderful faculty he possessed of simplifying and rendering clear the most abstruse subjects. And in this perhaps, as much as in anything else, lay the secret of his success as a lawyer. He could take, for instance, the most difficult point of law, and in a few well chosen, pithy sentences, place it clearly and forcibly before the minds of his hearers. As an illustration, I remember, shortly after we had commenced the study of law in the junior department, he made special inquiry as to our progress, examined us upon what we had gone over, and inquired the subject of our next lecture. We replied that it was "Uses and Trusts," frankly confessing that although we had read the text, we still felt ignorant of the subject. He then said, 'Listen to me boys;' and went into a dissertation upon the intricate and difficult subject, and in a conversation of perhaps two hours, gave us a history, accurate in chronology, minute in detail, profound and clear, as an exposition of the whole science, and this without reference to book or note, thus indicating the profoundest learning, and rendering the subject so clear to our minds that when we went to the review

the whole field seemed to be laid open before us. In this simple way he demonstrated not only his power before courts and juries, but likewise the rare ability he possessed to impart to others, in the clearest and most comprehensive manner, what he knew and what had heretofore seemed to them insuperably difficult.

It was one of the noticeable traits of his character that he was ever anxious to impart information and knowledge to the young, to encourage and advance them. He rarely lost an opportunity of instructing, and this, in such an easy, unaffected, conversational style that it both captivated and instructed the mind. In the many conversations with his son and myself, during this, and the next succeeding term at the University, seemed to be his constant desire to communicate to us a historic and philosophic knowledge, and to lead us insensibly into the deep delights of history and literature. In this connection, I must say that after a longer and more extended acquaintance with Mr. Peyton I learned to regard him as a man of the profoundest learning, not only in the great principles and science of the common law, but also in general history and literature; and he expressed himself with more precision, condensation, vigor, and beauty of language than any man I have ever known. I never heard Mr. Peyton speak at the bar or on the hustings. From what I know, and have heard of him, his conception of a great subject and mode of expression were as clear, distinct and demonstrative as that of Edmund Burke. Judge Tucker who had known him intimately for over forty years, once said to me: "I regard Mr. Peyton as one of the profoundest and most learned of lawyers." During one of my summer vacations I visited his son John L. Peyton at Montgomery Hall. I had formed an intimate friendship with him which yet continues. On this visit I was a witness and subject of the splen-

did hospitality of Mr. Peyton and his amiable and accomplished wife. One morning shortly after sun rise John Lewis Peyton and myself leaving our chamber, strolled into the park-like grounds admiring the venerable and wide-spreading oaks and beautiful scenery. On the porch in front of his office which contained his law and miscellaneous library was the dignified figure of Mr. Peyton seated in his accustomed arm chair, book in hand and a long pipe in his mouth. (He was much addicted to the Virginia weed.) On our approach he rose, and politely exchanging with us the morning salutations, bade us be seated. He then said: "I am looking over, for a second time, the first volume of Allison's History of Europe. Though it has faults of style, and is marred by political prejudices, it is the most remarkable historical work of the country."

The book was closed, his finger between the leaves. In this attitude he proceeded, as was a habit with him, upon a disquisition upon the value and importance of historical study. "It instructed," said he, "the young whose destiny it might be, in time to guard the rights or secure the welfare of the community." He declared in general terms that the object of history, the great object, was to make men wiser in themselves and better members of society. By recalling the past it opened up a wider field for observation and reflection than any personal experience could do, and thus prepared a man to act and advise in present contingencies. He continued in this vein for a half hour, illustrating his views by reference to ancient, medieval, and modern history, displaying a soundness of view, and extent of research, a manliness of principle, an accuracy of learning, and a vigor of style surpassing anything I have ever heard.

There have been few truly great men who were not noted

for their courtesy and hospitality. Both of these traits Mr. Peyton possessed in a high degree. His manner to his son and myself was most courteous and ever of such a nature as to impress us with the idea, if possible, that we were men entering upon the great theatre of life, with the prospect before us of attaining eminence in our profession, of rendering ourselves useful to the State, and of service to society. There was something in the appearance and manner of the man, when you first come into his presence and under his influence, before he had uttered anything more than the ordinary salutations, that convinced you at once that you were in no ordinary presence, and upon closer intimacy, that you felt that you were under the influence and power of a *great man*; a *master spirit*. In public, in his intercourse with men generally as I have seen him, there was a hauteur, a dignity and ever a majesty that repelled rather than attracted men. At his own fireside, that feeling was entirely dispelled, and the boy even was drawn to him, listened to and talked to him, as though he were his equal. Such were the warm sympathies, tender feelings, the affectionate nature of this, to the world, reserved and haughty man.

Mr. Peyton, as a legislator and Senator, representing Rockbridge and Augusta, made his mark as one of the leading Statesmen of Virginia, stamping his genius and learning upon the statute laws of the State, establishing for himself such a reputation as would have placed him, had he been a member of the Senate of the United States by the side of Webster, Clay, and Calhoun. But his love for home and family, devotion to his profession, and natural fondness for rural pursuits, suppressed all desire for public life and extended reputation. He was fond of horses, dogs, and the occupations of the country gentleman. Had he desired and entered pub-

lic life, his reputation would have been national, and he, a noted character in history. It is well here to say, that Mr. Peyton had been thoroughly trained, not only in classical and mathematical schools of the country in early youth, but was also a graduate, with the degree of Master of Arts, of Princeton College, where his great abilities were early and fully manifested and recognized by the erudite and eminent men under whose charge that institution of learning was then conducted.

Mr. Peyton—then a young man—was a member of the lower house of the Legislature of Virginia in 1808, 1809 and 1810, from the county of Stafford, and wrote and offered a series of resolutions, as chairman of a committee, raised upon certain resolutions adopted by the Legislature of the State of Pennsylvania, and communicated by the Governor of that State to Governor Tyler (afterwards President of the United States) with reference to an amendment to the Constitution, so as to prevent a collision between the State Governments, and the Government of the Union, as to their judicial departments, which preamble and resolutions, drawn by Mr. Peyton, were adopted unanimously by both branches of the Legislature. This important State paper can be seen in the Works of Daniel Webster, vol. III., pages 352, 353, and 354. So able and important were these resolutions at the time, as to attract the attention of the leading Statesmen of the country, and guide the other States in the adoption of similar resolutions, thus overthrowing the effort of Pennsylvania to establish a separate and distinct judicial department as arbiter between the Federal and State Governments.

In the great discussion between Daniel Webster and General Hayne, of South Carolina, Mr. Webster, in his second speech in reply to Mr. Hayne, referred to and quoted the

preamble and resolution spoken of, as conclusive of that question as to admit of no further discussion.

Mr. Webster was so much struck with Mr. Peyton's resolutions, that he wished to know something of their author. Meeting Daniel Sheffey, long one of the representatives in the Lower House of Congress from Virginia, the following conversation, in substance, occurred. Mr. W. asked:

"Do you know a gentleman in Virginia by the name of Peyton, the author of some resolutions in the House of Delegates in 1810, on the subject of a conflict between the government of the Union and the State governments."

"Yes," replied Mr. Sheffey, "he lives in Staunton, and is the leader of the bar in the circuit."

"I am not surprised to learn it," rejoined Mr. Webster.

"Is he a speaker," said Mr. Webster.

"Not in a popular sense," replied Sheffey. "He is not a florid speaker, indulges in no meretricious display of rhetoric, but thoroughly armed in the strength of his knowledge, research and cultivated ability, without any effort to display it, he possesses gigantic power, and by it he has risen to the head of the profession. And he is not only a great, but a good man."

"It is a misfortune to your people and the country that such a man should not have been sent to Washington long ago," said Mr. Webster. "He would have maintained Virginia's proud intellectual supremacy, and by the soundness of his views enhanced her influence."*

At the death of Judge Stuart, in 1830, the vacancy occasioned by the death of that jurist, Lucas P. Thompson, of

*In 1851-52, Mr. Webster then Secretary of State, dispatched his son, John Lewis Peyton, to Europe and expressed a wish to have him permanently in the diplomatic service.

Amherst county, then a young man who had distinguished himself in the Constitutional Convention of 1829 and 1830, became a candidate for the office of Judge. Mr. Peyton was brought forward by his friends. Thompson had made himself popular on the basis question, and was regarded as one of the most rising young men of his contemporaries. He was the junior of Mr. Peyton. My father, at that time, was a member of the House of Delegates from Augusta county. The contest for Judge came off. My father, the ardent advocate of Mr. Peyton, was sustained in his opinion of him by some of the ablest jurists of Virginia, amongst them was Benjamin Watkins Leigh, who said to him that "Mr. Peyton was the greatest lawyer west of the Blue Ridge." The then Senator from this district, a personal enemy, without cause, however, of Mr. Peyton, exerted all his popularity and power in favor of Mr. Thompson, and on his election, said that he had accomplished a long cherished wish, that of defeating an ambition of Mr. Peyton. But he signally failed. It is well known that Mr. Peyton did not wish the office of Judge, much preferred to retain the greatly more lucrative and equally honorable situation of public prosecutor, as in the interest of a large and growing family.

Major James Garland, now Judge of the Hustings Court of Lynchburg, himself a great lawyer and statesman, about the time I went to the bar of Nelson county, said in a conversation with me: "I was a member of the Legislature that elected Thompson. But for the course of the Senator from Augusta and Rockbridge, your father would have succeeded in the election of John Howe Peyton, than whom there is no greater lawyer in the Commonwealth."

Mr. Frazier has so well described him as a common law lawyer and the most eminent prosecutor that Virginia has ever

had, that I forbear to say anything further with reference to that matter. That is a part of the history of the jurisprudence of this State. I will add, that I have seen his Coke Littleton, (studied by him as a student of law,) with the marginal pages filled with annotations and references, indicating the application and devotion he felt for his profession. I am told that he had a grim way of preventing such as had not the ability from entering into the profession of the law. In his library there was a rare old edition of Littleton on Tenures. He considered this book as the basis of the laws of real property in England, and he thought that it should be first read without Coke's Commentary. When a young man desired to study law under him, whom he knew to have no capacity to succeed, he placed this work in his hands, asking him to read it again and again, and strive to understand it without recourse to the Commentary, and return for examination after a fortnight's or three weeks' perusal, of such part as he had mastered. It rarely happened that the young man did not hand him back the book, at the end of a short time, announcing his purpose of seeking a livelihood in some other field. Thus he was instrumental in keeping some from the profession, who, by entering into the law, would have derived no profit to themselves, nor reflect credit upon the profession. And on the other hand, when he discovered merit in a young man, no one was more prompt, active and generous in encouraging it.

His conversation with his son and myself above referred to, on Uses and Trusts, exemplified the fact that he had not forgotten, in his maturer what he had learned in his younger years. I have been told that Mr. Peyton had acquired the habit of reading, or at least looking over, Blackstone once a year, and it was rarely the case that he referred to prece-

dents and decisions of the courts, which has become the bane of the profession of this day, but for authority he went down to the deep foundations of the law, treating and regarding it as a fixed and accurate science, not depending upon the opinion of this jurist or that, and thus arriving at just conclusions alike convincing to judge and jury. There have been many men whom the accident of applause or fortune have made great, but few who were great in themselves. Amongst the latter, Mr. Peyton stands in the front rank. As a man, he was true, noble and generous; despising the low, vulgar and ignoble, and valuing only the pure and elevated; by genuine courtesy and kindness, he won all hearts, and by stern integrity he retained the golden opinions he gained. As a father and husband, he was active and earnest in his endeavors to fill the part of a true man; as a lawyer he stood second to none, and by the breadth of his learning and knowledge, his clear and comprehensive manner, and his earnest and determined performance of duty as a public prosecutor, he has won a position such as few lawyers have ever attained. As a statesman, the high praise which his generation gave him, the deep respect in which he was held by the eminent men of his time, and the undying record which history bears to his genius and achievements, mark him as one of the great men of Virginia, who may be proud of her son, while she can justly regret that he should have sought privacy and retirement, in preference to national glory. Modest, sincere, learned and determined, Virginia has had few to equal—none to surpass him. In the past, he moulded and controlled the opinions and actions of the times, so in the future may he ever serve as a model for the true and the good, and prove an incentive to the ambitious. May the young learn to emulate his life and example, while the old revere and respect his memory.

SKETCH OF JOHN HOWE PEYTON,

BY

JOSEPH ADDISON WADDELL, B. L. OF W. & L. UNIVERSITY.

From my earliest recollection, I was familiar with the personal appearance of Mr. Peyton. His figure was too distinguished to pass unobserved by even the youngest children in the streets of Staunton. He was tall, erect and portly; his head set gracefully on his shoulders; his garments always appeared to fit well, and exactly corresponded with his age and station; so that altogether, in his person, he came nearer my ideal of gentlemanly elegance than any one I have ever known.

Mr. Peyton discontinued the practice of his profession before I was capable of forming an independent and intelligent estimate of his ability as a lawyer. During my boyhood I frequently heard him speak in the Court-house; but I was then unable to appreciate forensic efforts. From the attention and the deference to his utterances shown by the citizens generally. I had no doubt that he was a legal oracle. According to my recollection of him, he never attempted flights of eloquence. There was nothing, I believe, flowing or ornate in his style. He used no "big words," but in the plainest language spoke directly to the question at issue, making himself understood by the most illiterate jurymen; and whatever the verdict, he never failed to excite admiration for his ability and the dignity of his deportment. He was often eloquent, in the highest and best sense of that word. While I was a boy I heard an intelligent citizen endeavoring to repeat a part of one of Mr. Peyton's recent speeches, which he seemed to admire very much, commenting at the same time upon the

simplicity of the phraseology and the absence of all mere rhetorical display.

My impression of Mr. Peyton's talents is derived chiefly from my father's estimate of him. My father, although a physician, was fond of discussions at the bar, and during the sessions of the courts spent most of his leisure time at the court house. He considered Mr. Peyton a great lawyer, and a man of great intellect. Although fastidious in his taste and a severe critic, I never heard him speak otherwise than in terms of respect and admiration of Mr. Peyton's efforts.

I well remember the scene in the old county court, when Mr. Peyton formally retired from the bar. That tribunal was one of the most beneficent institutions which we inherited from our mother country. The body was self-perpetuating and very careful to maintain its respectability in the election of new members. To be a member of the Bench under that system, was generally conclusive of the fact that the individual was worthy of and enjoyed the confidence and respect of the community. The Justices were not professional lawyers, and depended greatly upon the attorney for the commonwealth for advice and assistance in Court. Mr. Peyton was for many years Commonwealth's Attorney for the County Court of Augusta, as he was also for the Circuit Superior Court. When he resigned his office in the former Court, the assembled Justices were visibly affected. They adopted resolutions expressive of their appreciation of his ability, uprightness and uniform and marked courtesy to the Court. He doubtless always exhibited the same respect for the County Court of Augusta, composed of his familiar friends and neighbors, professionally unlearned as they were, as he ever did for the Judges of the Supreme Courts of Virginia or the United States. The Justices were unwilling to give him

up, however, and as the next best thing to having him as their legal adviser, they elected him a member of their own body. He accepted the office in the spirit in which it was tendered, and I remember to have seen him on one or more occasions afterwards sitting on the County Court bench with the other Justices.

While I have disclaimed any competency to speak of my own judgement, of Mr. Peyton as a lawyer, I had the pleasure of knowing him personally as intimately as a boy and youth could know a gentleman of his age and position. My father was his physician for many years before his death, and his confidential friend. I have heard it said of Mr. Peyton, and I believe truly, that if he liked a man he liked everything belonging to him—his children and even his dogs. Liking and trusting my father, he seemed to extend the same feeling to me. While I was still a small boy, he found me out, and wherever he met me would familiarly accost me by name. I remember to have encountered him on one occasion on the highway leading from town to Montgomery Hall; he could not let me pass without special notice. He stopped me on the spot and detained me for a considerable time in conversation. He was exceedingly fond of a good joke and his style of conversation was often sportive. On the occasion referred to, there was something in his manner or expression suggestive of mirth and I was suspicious that he was amusing himself a little at my expense; yet I parted from him with a feeling of elation at enjoying the familiar acquaintance of such a man. He appeared to act habitually in the spirit of Lord Bacon's saying in his 52nd essay "amongst a man's inferiors one shall be sure of reverence, and therefore it is good a little to be familiar." His witticisms and sarcasms were keenly relished by my father, who rarely returned from a visit to him without

having something of the kind to report. He had no toleration for dishonesty, impudence or sham. To people whom he considered honest and well behaved, however, ignorant or lowly, he always felt and acted kindly, but from others, whom he thought unworthy, he could not conceal his disapprobation. He was not in the habit of giving utterance to censorious or unfriendly remarks about persons, and I am sure I never heard him speak unkindly of any one. He was eminently a just man in all his dealings with his fellow men. Requiring from others what was his due, he most scrupulously gave to every man whatever belonged to him, as far as he could. *Suum quipue tributo* is one of the few maxims of Rudiman which I remember, and it after occurred to me in connection with Mr. Peyton. I early learned to regard him as the personification of justice. While Mr. Peyton was living I heard my father eulogize this trait in his character.

I have no recollection of having been in Mr. Peyton's law office while he occupied it, but towards the close of his life, I often met him in his home. His manner then to me and other guests was all that could have been desired. He was not reserved and distant on the one hand, nor on the other did he embarrass by excessive attentions. Recognizing the presence of each visitor and extending a cheerful greeting, he made all feel welcome. His hospitality was proverbial. Possessed of ample wealth, he admitted a large number of persons to participate in it around his family table. Upon principle, he discountenanced wastefulness, but he used his money with an enlightened liberality, freely expending it for all useful and proper purposes, and contributing bountifully to all public enterprises.

I have understood that Mr. Peyton had for many years kept by him a last will and testament written by his own

hand. But about a year before his death, when he was physically unable to write, except to sign his name, owing to some changes in his family or estate, he desired to execute a new instrument. It was necessary for him to obtain the assistance of a friend, and my father was called upon to aid him. On returning from Mr. Peyton's, one day in the latter part of April, 1846, my father handed to me a voluminous manuscript in his hand-writing, blotted and interlined, accompanied by a request from Mr. Peyton that I would make a pair copy of it by a particular day, when the latter proposed to come to town and append his signature before witnesses. The copy was duly made and on the appointed day Mr. Peyton came to my father's house. He selected as additional witnesses, Messrs. George M. Cochran and Benjamin Crawford, and I was dispatched to request the attendance of those gentlemen. While I was unwilling to appear obtrusive by remaining in the room uninvited, the scene interested me so deeply, that I could not go away entirely. Withdrawing into an adjoining apartment, I heard all the preliminary conversation, which I felt sure Mr. Peyton would not object to. He explained the provisions of the will, as far as he thought necessary, and appeared anxious to satisfy his friends present of the justice and propriety of his course. Amongst other matters, he referred to the noble sorrel horse which he had ridden for seven years, and expressed a desire that the animal should be well cared for. When about to sign his name, he discovered my absence, and hearing him call for me I returned to the room, and in obedience to his wishes subscribed my name as a witness.

This scene greatly impressed me at the time, and has often recurred to me as one of the most interesting of my life. It was like the performance of an imposing drama. Mr.

Peyton, of course, was the prominent figure and chief speaker; his bodily powers impaired, but his intellect as vigorous as ever; his presence dignified and commanding; his conversation flowing and sparkling like a stream of water in the sunshine, while there was something more in the tone of his voice, in his manner and the expression of his countenance, by me indescribable, which greatly interested and almost charmed me.

Mr. Peyton was always, as far as I know, a firm believer in the Bible and the great doctrines of the Christian religion. He was decided in his preference for the Episcopal Church, in whose communion he died, but he never was accused of bigotry. On the contrary, he respected and supported all good men of whatever denomination, and required no one to renounce his shibboleth, or to subscribe to his creed.

The foregoing is a very imperfect sketch of one whom I greatly revered; whom I found in all my intercourse with him, according to my ability to judge, a most polished gentleman; and whose kindly treatment of me during my boyhood and early youth, inspired me with feelings towards him akin to those of filial affection.

D. S. YOUNG'S IMPRESSIONS OF JOHN HOWE PEYTON.

To Col. John Lewis Peyton:

Dear Sir:—Arising from a laudable motive, that of respect and veneration for the memory of your late father, John H. Peyton, and the fact that I was intimately acquainted and associated with him for a number of years before his death, I

take pleasure in complying with your request and write out my recollections of him. Your request recalls memories of the past, and I undertake the task—a pleasing one to me—but with the regret that I feel incompetent to perform it in a manner satisfactory to those for whom it is intended.

Men have their entrances and exits, each playing his part, and it has been truly said their works do follow them. This should be so. The works of a bad man should be held up as a beacon to warn off those who follow from the rock upon which he split and went down, whilst the work of the good man should be held up as a bright and shining light to illuminate the difficult and rugged paths of those who follow after. We all have faults, at least foibles, and it may be too often the case in the weakness of human nature that even slight faults and foibles are held in remembrance, whilst the good qualities are permitted to go down and slumber in the grave. Mr. Peyton would not have been human if without fault or foible, yet I recall none—none that could not be covered with the smallest mantle of charity.

Without falling at least into the modern idea of universal equality, I undertake to say that Mr. Peyton was possessed of gifts and acquirements that made him the equal of any man. In physical developments he was quite a model, considerably over the average height of his fellow-men, well proportioned, with broad chest, and massive head, his personal appearance struck the most casual observer, who but eyed him, as one of nature's noblemen.

Mr. Peyton belonged rather to the generation that has gone before that of the writer, consequently Mr. Peyton was fully up to, if not beyond the meridian of life, when I became acquainted with him, which acquaintance commenced about the year 1827 and became intimate about 1839,

and so continued until his death, which occurred in April, 1847. I therefore, had no personal knowledge of Mr. Peyton's early history, of his opportunities, education, &c. Judging, however, from his superstructure the foundation must have been deep and well laid. His information was not confined to one particular thing, his mind was well balanced and powerful. Success was his in anything on which he concentrated his powers. Having made the law his principal study and profession, and believing that the best road to success, in life was in one pursuit, he stuck to it until far advanced in life. I hazard nothing when I express the opinion that there was a time in Mr. Peyton's life, when with less push than other men who rose to distinction, had he given up the forum for the rostrum, the light that he would have shed would have gone forth over the land.

Mr. Peyton was by universal consent a lawyer from the commencement down to the latest statutes. As a counsellor he was always ready to answer touching any legal questions; as a speaker at the bar, always pointed and direct, confining himself directly to the points at issue. His manner was lofty, his gestures graceful; he hardly ever indulged his fancy, or attempted oratorical displays; never spread too much sail for his ballast, but just enough to keep him in the direct line of argument. His speeches were made to and for the court and jury, and not for outside consumption and comment. As a high compliment to Mr. Peyton, when a young man he received from the late Judge Archibald Stuart, the appointment of Attorney for the Commonwealth for all the counties composing the judge's circuit. The judge knew too much of mankind to confer such an appointment on one incompetent or unworthy of the important position. In this

the venerable judge was not disappointed. The earliest recollections of the writer are associated with seeing the venerable judge and his fine looking Attorney for the Commonwealth, passing the public roads from court to court, commanding the respect of all good citizens, but a terror to evil doers.

Mr. Peyton was continued in the office of Attorney for the Commonwealth after the death of Judge Stuart by appointment from the late Judge Lucas P. Thompson. He also held the same appointment for the County Court of Augusta, and continued to hold both until 1839, when he was elected to represent the counties of Augusta and Rockbridge in the Senate of Virginia, which position he held until he was overtaken with sickness, from which there could be expected no recovery, when he gave up his position and retired to his home, Montgomery Hall, where he died, as before stated, April, 1847.

As a husband and father, no man better stood up to his obligations. Having married a second time when somewhat advanced in life, he became the father of a large family of children. Seeing, as he did, that in the ordinary course of nature, he must leave a number of his children of tender years, ample provision for them was a matter of great solicitude. In this he was successful—he left them in comfortable circumstances.

In his dealing with his fellow-man, Mr. Peyton was scrupulously honest. The word honest might express everything. Mr. Peyton was exact in discharging his obligations, and men who practice upon that idea with reference to their obligations generally expect others to do likewise. He required nothing that was not clearly right, and he was not the man to tamely submit to a violation of his rights. His hospitality at his al-

ways well supplied mansion was generous, cordial and elegant. He was a lover of law and order, and of pure religion. The writer is not informed whether or not he became an inside member of the church before his death. He was, however, what we may call an outside pillar of the Episcopal church (the church, I believe, of his ancestors) and contributed liberally of his means in not only the support of that church, but to the building up of other churches and objects calculated to extend the Christian Religion. He was in favor of a sound progress (not much of a reformer) and gave a helping hand to all enterprises calculated to improve.

I will now close this communication with an allusion to Mr. Peyton's generosity, and illustrate that by giving an incident that occurred many years ago. Such incidents are so few and far between, and when they do occur they ought to be recorded on paper, as memory must fail.

At the June term of the Circuit Court of Augusta county, 1839, a young man who had procured his license to practice law, presented himself at the Staunton bar, then well filled with able and experienced lawyers. Our young man had broken down at another pursuit, and had upon him the cares of a growing family. An important criminal trial was coming on. Mr. Peyton was the leading and principal counsel in the cause for the Commonwealth, the last of his life. Those two whole-souled and generous gentlemen, the late Judge Briscoe G. Baldwin and Thomas J. Michie, then at the bar, and in full practice appearing for the defence. Messrs. Baldwin and Michie seeing, no doubt, the hard struggle our young man was making, kindly proposed to him that if he desired to make an appearance at the bar, to select any of their cases and appear with them. Availing himself of this invitation, he proposed to them that he would select the criminal

case then coming on. That he would take no part in the examination of the testimony, but would simply make a short opening speech for the defence. The arrangement was assented to and the young man took his position. After thus entering into the cause, he met with a gentleman of the bar who had attained considerable distinction, and said to him that he thought that he was venturing too far—a failure would be most disastrous. This was exceedingly discouraging to the young lawyer. It was however life or death, sink or swim, and he must go forward. The testimony gone through with, the argument came on. Mr. Fultz, who was assisting Mr. Peyton in the prosecution, opened the cause for the Commonwealth. Then came the trying time on our young lawyer, when he arose and delivered his speech in about 35 minutes. Whether he had been of any service in the cause or not he could not tell, he did not feel however that he had made a failure. When turning round to take his seat Mr. Peyton in the most pleasing manner extended to the young man his right hand, took the hand of the young man and shook it most cordially, and in the presence of a crowded Court-house, remarked in his emphatic way, 'Sir, you've made a good speech, a very good speech, indeed. Between Mr. Peyton and our young man there was no tie of blood or kindred, no obligation, whatever, on his part. He was surrounded with considerable wealth and friends; had made character and reputation; had just been elected to the State Senate of Virginia by a large majority. The young man was poor—comparatively friendless; had never been surrounded by any adventitious circumstances; had by his own efforts and without material aid, worked his way to the bar. This most generous act of Mr. Peyton gave him encouragement; he went forward in the profession, and although he may not have attained dis-

tion, he has had the respect of the profession, and used it as the means of raising a large family. And now, although forty winters have rolled over since the occurrence referred to, leaving the head of that then young man almost as white as the frost, the manly form, pleasing face and generous conduct of Mr. Peyton are fresh and green in his memory, and he has here undertaken this imperfect sketch of his recollections of Mr. Peyton as a small tribute to his memory.*

DAVID S. YOUNG.

Staunton, Va., January 31st, 1879.

LETTER FROM HON. GEO. W. THOMPSON,

FORMERLY M. C. FOR THE WHEELING DISTRICT, W. VA.,
AND UNITED STATES DISTRICT ATTORNEY FOR WEST-
ERN VIRGINIA.

HIS IMPRESSIONS OF JOHN HOWE PEYTON.

Steenrod, near Wheeling, W. Va., June 11th, 1879.

To Col. John L. Peyton, Staunton, Va.:

Dear Sir—Your note of May 31st was forwarded to me at the "Hills" in Marshall county, and thence to the court at Clarksbur, from which I have returned this week. I have hastened, and possibly with too much haste, to reply to your note. Herewith I send you the impressions your father made upon me. It is perhaps a little severe and stern for the effeminate men of these times, but the latter would be benefitted by comparison or contrast with the men of that day in which

*The young man above mentioned was D. S. Young himself.

John Howe Peyton and Briscoe G. Baldwin were the samples of excellence.

My acquaintance with John Howe Peyton became more intimate in 1828, when I was Attorney for the United States for the Western District of Virginia. He was then prominent as a remarkable man, and as an able and distinguished lawyer. He was a man of that tone and quality of mind, which soft and vacillating natures, or other minds not well grounded in high principles of conduct, *might* term austere. The logical character of his mind was that of severity of thought, and well trained in historical criticism. From such a mental constitution and from such culture all his motives of conduct, public and private, may well be supposed to have been the convictions of principles. As a statesman such a man could not do otherwise than shape his public life to the loftiest patriotism, as a lawyer to the sternest integrity of public right and justice, and as a man to all that was above what was low, base, or corrupt, or even common-place. Hence as a party leader or defender of right he had no mercy, in the public discussions of his times, for the mere trickster and demagogue, as public prosecutor he had no compromises with crime or guilt, and as a lawyer was inflexible and professionally just in the application of the principles of the law, which we looked upon as a science which tended to secure the rights of men and preserve the purity of the general life. There were not many men who could make such quick and decisive analysis of facts, and generalise from them the principles by which they should be governed, and state the results to which they lead, and this both in the domain of politics and of professional life. Young men, who desired to reach eminence and solid character, would seek his company and find a friend and counsellor, but not a companion in the

familiar sense, while those of feeble texture of mind would, in a certain seuse, be overawed and repelled. I should say his mind belonged to the Doric order—massive, almost severe in its simplicity, and strong, and in these qualities, conservative.

With great respect and esteem,

Yours truly,

GEO. W. THOMPSON.